A COLLECTION

Of such of the

ORDERS

Heretofore used in

CHANCERY;

WITH

Such Alterations and Additions thereunto, as the Right Honourable *Edward* Earl of *Clarendon*, Lord Chancellor of *England*,

By and with the advice and assistance of the Honourable Sir *Harbottle Grimston* Baronet, Master of the ROLLS,

Have thought fit at present to Ordain and Publish.

FOR

Reforming of several Abuses in the said Court, preventing multiplicity of Suits, Motions, and unnecessary Charge to the Suiters, and for their more expeditious and certain course for Relief.

LONDON,

Printed for *George Pawlet*, and are to be sold by *Joseph Raven* at *Lincolns-Inn* Back-gate. 1688.

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A COLLECTION Of such of the ORDERS Heretofore used in CHANCERY.

Bills.

THat no Counsellor do put his hand to any Bill, Answer, or other Pleading, unless it be drawn, or at least

perused by himself in the paper draught before it be ingrossed (which they shall do well for their own discharge, to sign also after perusal.) And Council are to take care that the same be not stuffed with repetition of Deeds, Writings, or Records, *in hæc verba*: but the effect and substance of so much of them only as is pertinent and material to be set down, and that in brief terms, without long and needless traverses of points not traversable, tautologies, multiplication of words, or other impertinencies occasioning needless prolixity, to the

the end the ancient Brevity and Succinctneſs in Bills, and other pleadings, may be reſtored and obſerved: Much leſs may any Council inſert therein matter meerly criminous or ſcandalous, under the penalty of good coſts to be laid on ſuch Council, and paid to the party grieved, before ſuch Council be heard in Court.

That all Bills be dated the ſame day they are brought into the Six Clerks Office, and that no Six-clerk preſume to antedate any Bill, and that no Under-clerk preſume to keep any Bill by him, but with the firſt

opportunity deliver the ſame to the Six-clerk, or his allowed Deputy, in his abſence to be accordingly filed.

No Bill, Anſwer, or other pleading ſhall be ſaid to be of Record, or to be of any effect in Court, until the ſame be filed with ſuch of the Six Clerks with whom it ought properly to remain.

Subpœna's.

THat all Plaintiffs may have liberty to take forth *Subpœna's ad reſpondendum*, before the filing of their Bills, if they

they pleaſe, notwithſtanding any late Order or uſage to the contrary.

That every *Subpœna* to anſwer, revive, review, rejoyn to teſtifie, or to hear judgment, ſhall be ſerved perſonally, or left at the Defendants dwelling houſe or place of reſidence, with one of that Family. And no Clerk of this Court ſhall iſſue any Attachment for not appearing, but upon Affidavit firſt made, poſitive and certain of the day and place of ſuch ſervice of the *Subpœna*, and the time of the return thereof, whereby it ſhall appear that

ſuch ſervice was made, if in *London*, or within twenty miles thereof, four days at the leaſt, excluding the day of ſuch ſervice: And if above twenty miles, then to have been eight days before ſuch Attachment entered: And that ſuch Attachment ſhall not be diſcharged, but upon payment of uſual coſts, and ſo the ſucceeding coſts to be double.

Pleas and Demurrers.

FOraſmuch as the Defendant being ſerved with proceſs to anſwer, may by advice

vice of Council upon ſight of the Bill, only be enabled to demur thereunto, if there be cauſe, or may by like advice be enabled to put in any juſt plea which he hath in diſability of the perſon of the Plaintiff, or to the juriſdiction of the Court: It is therefore ordered, That ſuch Demurrer, or ſuch plea in diſability, or to the juriſdiction of the Court, under the hand of Council learned, ſhall be received and filed, although the Defendant do not deliver the ſame in perſon, or by Commiſſion. And therefore if the Defendant ſhall pray a Commiſ-

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ſion, and thereby return a Demurrer only, or only ſuch a plea, which ſhall be afterwards over-ruled, the Defendant ſhall pay five marks coſts: and although it be allowed, the Defendant ſhall have no coſts in reſpect of the Plaintiffs needleſs trouble occaſioned by ſuch Commiſſion.

Every Demurrer ſhall expreſs the ſeveral cauſes of Demurrer, and ſhall be determined in open Court. And ſuch pleas alſo as are grounded upon the ſubſtance and body of the matter, or extend to the juriſdiction of the Court, ſhall be

be determined in open Court. And for that purpoſe, the Defendant is to enter the ſame with the Regiſter, within eight days after the filing thereof; or in default of ſuch entry made, the ſame ſhall be diſallowed of courſe, as put in for delay. And the Plaintiff may then take out proceſs to enforce the Defendant to make a better anſwer, and pay forty ſhillings coſts: and the ſame ſhall not afterwards be admitted to be ſet down or debated, unleſs upon motion it ſhall be ordered by the Court: And if any cauſe of Demurrer ſhall

ariſe,

ariſe, and be inſiſted on at the debate of the Demurrer (more than is particularly alledged, yet the Defendant ſhall pay the ordinary coſts of Over-ruling a Demurrer (which is hereby ordered to be five marks coſts) if thoſe cauſes which are particularly alledged be diſallowed: although the Bill, in reſpect of that particular ſo newly alledged, ſhall be diſmiſſed by the Court.

A Plea of Outlawry, if it be in any ſuit for that duty, touching which relief is ſought by the Bill, is inſufficient according to the Rule of Law, and

ſhall

ſhall be diſallowed of courſe as put in for delay: And the Plaintiff may notwithſtanding ſuch Plea, take out proceſs to enforce the Defendant to make a better anſwer, and pay five Marks coſts; otherwiſe a plea of Outlawry is alwaies a good plea, ſo long as the Outlawry remaineth in force: And therefore the Defendant ſhall not be put to ſet it down with the Regiſter: And after the ſaid Outlawry reverſed, the defendant upon a new *Subpœna* ſerved on him, and payment unto him of twenty ſhillings coſts, ſhall anſwer the ſame Bill, as if ſuch

Out-

Outlawry had not been: But if the Plaintiff conceive ſuch plea of Outlawry through miſpleading, or otherwiſe to be inſufficient, he may, upon notice given to the Clerk on the other ſide, ſet it down with the Regiſter, to be debated with the reſt of the Pleas and Demurrers in courſe: But if the Plaintiff ſhall not in ſuch caſe enter it with the Regiſter within eight days after the ſame ſhall be filed, the Defendant may take out proceſs againſt the Plaintiff for his ordinary coſts of five Marks, as if the ſame had been heard.

The

The Dependancy of a former Suit for the ſame matter, is alſo a good plea; and therefore the Defendant ſhall not be put to ſet it down with the Regiſter; But if the Plaintiff be not ſatisfied therewith, the ſame ſhall be referred to one of the Maſters of the Court to certifie the truth thereof; and if it ſhall be determined againſt the Plaintiff, he ſhall pay five pounds coſts to the Defendant; But ſuch reference ſhall be procured by the Plaintiff, and a report thereupon within one Month after the filing of ſuch plea, otherwiſe

the

the Bill to ſtand diſmiſt of courſe with the ordinary coſts of ſeven Nobles.

If after a Suit commenced at the Common Law, or any other inferiour Court, a Bill ſhall be exhibited in this Court to be relieved for the ſame matter, the dependancy of the former Suit ſhall be admitted as a good plea, and the Defendant not be put to motions for an Election or Diſmiſſion, and that plea ſhall be proceeded in, as in caſe of a Plea of a former Suit depending in this Court for the ſame matter.

After

After a Contempt duly profecuted to an Attachment with proclamation return'd, no Commiſſion to anſwer ſhall be made; nor no Plea or Demurrer admitted; but upon motion in Court, and Affidavit made of the parties inability to travel, or other good matter to ſatisfie the Court touching that delay.

Anſwers.

After a Commiſſion once obtained to anſwer, no ſecond Commiſſion ſhall be

granted without ſpecial Order of Court upon good reaſon ſhewed to induce the ſame; or the Plaintiffs own aſſent.

An Anſwer to a matter charged as a Defendants own fact, muſt regularly be without ſaying, *To his remembrance*, or *As he believeth*, if it be laid to be done within ſeven years before, unleſs the Court upon exception taken, ſhall find ſpecial cauſe to diſpenſe with ſo poſitive an anſwer. And if the Defendant deny the fact, he muſt traverſe or deny it (as the cauſe requires) directly, and not by way of negative

pregnant.

pregnant. As if he be charged with a receipt of a ſum of mony, he muſt deny or traverſe that he hath not received that ſum, or any part thereof, or elſe ſet forth what part he hath received. And if a fact be laid to be done with divers circumſtances, the Defendant muſt not deny or traverſe it literally, as it is laid in the Bill, but muſt anſwer the point of ſubſtance poſitively and certainly.

When the Defendants have anſwered, the Plaintiffs and their Council are ſeriouſly to adviſe of the anſwers, and if

they find that upon the anſwer alone, without further proof, there be ſufficient ground for a final Order or Decree, to proceed upon the anſwer without further lengthening of the Cauſe. Or if it be needful to prove one or a few particular points, to reply unto thoſe points, and not to draw into pleading or proofs any more than thoſe neceſſary points, thereby making long books, and putting both ſides to unneceſſary charges, the Defaulters herein to be puniſhed by paying the charge of the Copies, or otherwiſe, as the cauſe ſhall require.

If

If a hearing be pray'd upon Bill and Anſwer, the anſwer muſt be admitted to be true in all points; and no other Evidence to be admitted, unleſs it be matter of Record to which the anſwer refers, and is proveable by the Record: The Plaintiff is therefore to be well adviſed, that the Court be not put to an unneceſſary trouble, and himſelf to a certain charge, in bringing his cauſe to hearing which will not bear a Decree.

Exceptions.

WHen a Plaintiff excepteth to a Defendants anſwer, he ſhall ſet down his Exceptions in Writing; and if the anſwer be filed in Term time, he ſhall the ſame Term, or within eight days after that Term, deliver the ſame Exceptions to the Council whoſe hand is to the anſwer, or to the Defendants Clerk in Court; and if the Defendant do within eight days after ſuch delivery, ſatisfie the Plaintiff of the invalidity of thoſe exceptions,

or amend the anſwer in the ſame time, or agree with the Plaintiff, or his Clerk, or Solli-citor, to amend it by ſuch time as they ſhall agree upon, and do amend it accordingly, and pay twenty ſhillings coſts, the Plaintiff ſhall go on to Reply; but if the Defendant ſhall fail to do the ſame, or put in a ſe-cond inſufficient anſwer, the Plaintiff may get the anſwer or anſwers referred: and if the ſame ſhall be ruled inſuf-ficient, the Defendant ſhall pay forty ſhillings coſts. But if an anſwer be filed in Vacation time, then the Plaintiff ſhall

have eight days in the beginning of the next Term, if he ſee cauſe to put in his Exceptions, and deliver them in Writing in like manner, as before is appointed: and the Defendant within eight days after ſuch delivery to proceed as before is ordered.

If the Plaintiff ſhall procure a Reference of an inſufficient anſwer within the time before limited, and the ſame be reported good, the Plaintiff ſhall pay the Defendant forty ſhillings coſts.

If the firſt Anſwer be certified inſufficient, and ruled ſo, the

the Defendant ſhall pay forty ſhillings coſts as aforeſaid: if the Anſwer was put in in perſon: But if the ſame came in by Commiſſion, the Defendant ſhall have fifty ſhillings coſts, and no new Commiſſion ſhall be awarded for taking a ſecond anſwer, unleſs it be by Order, upon Affidavit made of the parties inability to travel, or other good matter, to ſatisfie the Court touching that delay, and firſt paying the coſts of ſuch inſufficient anſwer, or by the Plaintiff, or his Clerks aſſent for expediting the cauſe. If the ſecond anſwer

be

be reported insufficient unto any the points formerly certified, the Defendant shall pay three pounds costs: and upon the third insufficient, four pounds costs: and upon a fourth Answer certified insufficient, he shall pay five pounds costs, and be examined upon Interrogatories to the points reported insufficient, and shall be committed, until he hath perfectly answered those Interrogatories, and paid the costs, in respect of the great vexation and delay which in such cases will happen to the Plaintiff.

No

No *Subpœna ad rejungendum*, ſhall be of force, unleſs there be a Replication filed in the cauſe according to the courſe of the Court, before the iſſuing out of the ſaid *Subpœna*, or at leaſt before the return thereof: And the parties upon whom ſuch *Subpœna* ſhall be ſerved, finding no Replication filed before the return thereof, ſhall have the ordinary coſts taxed according to the courſe of the Court.

Exami-

Examination of Witneſſes.

WHen the parties are at iſſue, and proceed to examine Witneſſes, the Interrogatories are to be penned with care, that the ſame be pertinent, and only to the points neceſſary, and the Witneſſes are to be ſorted and examined on thoſe Interrogatories only, that their Teſtimony doth extend unto, without the needleſs Interrogatories of matters unneceſſary, immaterial, as well to avoid the charge of both parties, Plaintiff and Defendant,

dant, in ſuperfluous Examinations, as that apt Interrogatories (which are the life of the cauſe) may be exhibited.

No Witneſs ſhall be examined in Court by the Examiner, without the privity of the adverſe party, or of his Clerk who deals for the adverſe party to whom the perſon to be examined ſhall be ſhewed, and a Note of his name and place of dwelling delivered in writing, by ſuch as ſhall produce him; and the Examiner is to take care, and be well ſatisfied that ſuch notice be given, and then ſhall add to the Title of the

Wit-

Witneſſes Examination, the time of ſuch notice given, and the name of that perſon to whom it is given, and by whom, that at the hearing of the cauſe the Suitor be not delayed upon pretence of want of notice.

When Witneſſes are examined in Court upon a Schedule of Interrogatories, there ſhall be no new Interrogatories put in to examine the ſame Witneſſes, nor ſhall any Witneſſes be examined in Court after the day of Publication, though they were ſworn before, ſo as a Copy of the Rule or Order whereby Publication paſſed, be

be delivered to the Examiner, that he may take notice thereof.

That all Copies of Bills, Anſwers, Depoſitions, or other Record, or thing whatſoever belonging to the Six Clerks to copy, ſhall contain fifteen lines at the leaſt in every ſheet of Paper, written fairly, and orderly, and unwaſtfully: And that no ſuch Copy ſhall be henceforth delivered out of the Office, before it be ſigned by ſuch Six-Clerk to whom it belongeth with his own proper hand-writing, or by his Deputy in his abſence. Nor any Copy not ſo ſigned, ſhall be made uſe

of

of in Court, or before any Master, which all Clyents are to take notice of, to the end they may be prepared with such Copies at the hearing of their causes.

And whereas many inconveniencies do frequently arise by undue copying Bills, Answers; and other Pleadings, before they be filed; so as they are either never filed, or very irregularly, to the prejudice of the Clyent, and trouble to the Court, by unnecessary motions: It is therefore ordered, That no Under-clerk, or his Man, or other for him, do from hence-

forth

forth preſume to copy any Bill, or other Pleading whatſoever, before it be duly filed with the proper Six-Clerk, who ought to file the ſame.

For preventing of Perjury, and other Miſchiefs often appearing to the Court, the Examiner is to examine the Deponent to the Interrogatories directed *ſeriatim*, and not to permit him to read over, or hear read any other Interrogatories, until that in hand be fully finiſhed, much leſs is he to ſuffer the Deponent to have the Interrogatories, and pen his own Depoſitions, or depart

after he hath heard an Interrogatory read over, until he hath perfected his Examinations thereunto. And if any Witneſs ſhall refuſe ſo to conform himſelf, the Examiner is thereof to give notice to the Clerk of the other ſide, and to proceed no further in his Examination, without the conſent of the ſaid Clerk, or Order made in Court to order his ſo doing.

The Examiner ſhall not examine any Witneſſes to invalid the credit of any other Witneſs, but by ſpecial Order of the Court, which is ſparingly to be granted, and upon

Excep-

Exceptions first put into writing, and filed with the Examiner without fee, and notice thereof given to the adverse party, or his Clerk, together with a true Copy of the said Exceptions at the charge of the party so examining.

The Examiners (in whom the Court reposeth much confidence) are themselves in person to be diligent in Examination of Witnesses, and not intrust the same to mean and inferior Clerks; and are to take care to hold the Witness to the point interrogated, and not to run into extravagances, and

matters not pertinent to the Queſtion, thereby waſting paper for their own profit, of which the Court will expect a ſtrict accompt.

The Examiners are to take care that they employ under them in their Office, none but perſons of known integrity and ability, who ſhall take an Oath, Not to deliver or make known directly, or indirectly, to the adverſe party, or any other, ſave the Deponent who comes to be examined, any of the Interrogatories delivered to be examined upon any examination by him taken, or remain-

ing in the Examiners Office, or Extract, Copy, or Breviat thereof, before publication be thereof paſſed, and Copies thereof taken. And if any ſuch Deputy, Clerk, or perſon ſo employed, ſhall be found faulty in the Premiſſes, he ſhall be expulſed the Office, and the Examiner who ſo employed him, ſhall be alſo anſwerable to the Court for ſuch miſdemeanour, and to the party grieved, for his coſts and damages ſuſtained thereby: And ſuch Solicitor, or other perſon, who ſhall be diſcovered to have had a hand therein, ſhall be

liable to ſuch cenſure for the offence, as the Court ſhall find juſt to inflict upon him.

In examining of Witneſſes the Examiner ſhall not uſe any idle Repetitions, or needleſs circumſtances, nor ſet down any Anſwer to the Queſtions, to which the Examinant cannot depoſe, other than thus, *To ſuch an Interrogatory this Examinant cannot depoſe.* And in caſe ſuch impertinences be obſerved by the Court, the Examiner is to recompence the charge thereof to the party grieved, as the Court ſhall award.

That

That after Witneſſes examined in Court, there ſhall be two Rules only given for Publication, (*viz.*) an Ordinary Rule, and then a day to ſhew cauſe why Publication ſhould not paſs, and upon the return of a Commiſſion, one Rule only to be given, within which times aforeſaid, if the other ſide do not ſhew unto the Court good cauſe to the contrary, Publication ſhall paſs accordingly.

All Pleadings, Commiſſions, Certificates belonging to the Six-Clerks to receive, ſhall immediately, upon the bring-

ing in, or return thereof into this Court, be delivered to ſuch Six-clerks own hands, as ſhall be Attorney in the cauſe; or to the hands of his Deputy in his abſence: And not be from henceforth in any wiſe kept back: nor any Depoſitions or Anſwers taken by Commiſſion, or other Commiſſion to be opened by any of their Under-clerks, before they be ſo delivered.

No Bills, Warrants, Pleadings, Commiſſions, Decrees, Diſmiſſions, or other Records whatſoever, ſhall from henceforth be carried to be ingroſſed, inrolled,

inrolled, copyed, or otherwiſe uſed by any of the Under-clerks to their Chambers, or elſewhere, out of the Six-clerks Office, or Lodgings there. And ſo ſoon as any Clerk ſhall have ingroſſed, inrolled, copied, or uſed any ſuch Warrant, Pleading, Commiſſion, Decree, or other Record in the ſaid Office, he ſhall bring the Original thereof preſently back to ſuch Six-clerk to whom the cuſtody thereof doth belong, for the more ſafe keeping and diſpoſing thereof according to the ancient uſage.

Commiſſions

Commiſſions.

WHen a Commiſſion is awarded to examine Witneſſes, if by default of him that hath the carriage of the Commiſſion, or by his Commiſſioners nothing is done, he ſhall bear all the charges that the other ſide was put unto about that Commiſſion, either for Fees of Court, bringing or entertaining Commiſſioners, or Witneſſes, or otherwiſe to be aſcertained by the Oath of the party, or of him that diſburſed the mony for him, and ſhall renew

renew the Commiſſion at his own charges.

When a Commiſſion is awarded to examine Witneſſes, and the one ſide produceth and examineth all his Witneſſes, and the other ſide doth not, but pray a new Commiſſion, if it be granted, he ſhall bear all the charges of the renewed Commiſſion, both in Court, and in the Country, as well for the charge and entertainment of his own Commiſſioners, as of the Commiſſioners of the other ſide, and the other ſide ſhall be permitted to croſs examine the Witneſſes produced by him

that

that reneweth the Commiſſion; but if he will examine any other Witneſſes of his own, then he ſhall bear his own part of the charge; the charges herein mentioned to be aſcertained by the Oath of the party, or of him that diſburſed the mony for him.

He at whoſe inſtance a Commiſſion to examine Witneſſes after a former Commiſſion executed and returned, is once renewed, and he by whoſe default, or by default of his Commiſſioners, a former Commiſſion was not executed, and thereupon it is renewed, ſhall at his peril

examine

examine all his Witneſſes by that renew'd Commiſſion, or examine them in Court by the end of the Term, wherein that renewed Commiſſion is retornable without any more or further delay.

That no Commiſſion *ad examinandum teſtes* be executed in *London*, or within ten Miles thereof, without ſpecial order firſt obtained upon Affidavit made of the parties inability to travel, or other good matter; and that all Depoſitions taken by Commiſſion in *London*, or within ten Miles thereof, without ſpecial order as aforeſaid, ſhall ſtand ſuperſeded and ſuppreſſed

ipſo

ipso facto, and not allowed to be read as Evidence at the hearing of the cause. And the parties who shall cause the same to be so executed, shall suffer such punishment for their contempt and irregularity as the Court shall think fit.

Depositions.

WHere either party, Plaintiff or Defendant, obtaineth an Order to use depositions of Witnesses taken in another cause, the adverse party may likewise use the same without motion, unless he be upon special reason shewed to the Court by

by that party firſt deſiring the ſame, inhibited by the ſame order ſo to do.

No motion ſhall be made in Court, or by petition for ſuppreſſing of Depoſitions as irregularly taken, until the Six-clerk not towards the cauſe have been firſt attended with the complaint of the party grieved, and ſhall certifie the true ſtate of the Fact to the Court, with their opinion: If the Attorneys or Clerks on either ſide, ſhall not for the eaſe of their Clients agree before them, for which purpoſe a rule for attendance of the Six-clerk in ſuch caſe, ſhall be entred

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tred of courſe with the Regiſter at the deſire of the party complaining, which ſhall warrant their proceedings, and certificate to the Court.

Cauſes to be ſet down for hearing.

THE Six-clerks who are the only Attorneys in this Court, ought to inform themſelves continually of the ſtate and proceedings of their Clients cauſes, whereby they may be able to defend their Clients, and to give account to the Court, as the Attorneys in all other

other Courts do, and not to leave the care and knowledge thereof upon their Under-clerks who attend not in Court, and the Clients and ſuch as follow their cauſes, are to acquaint their Attorneys for that purpoſe.

Such as deſire to have their cauſes ſet down for hearing, muſt repair to the Six-clerk that is Attorney in the cauſe, at leaſt ſix days before the end of the Term, that the Six-clerk may inform himſelf of the ſtate of the cauſe, of the long or ſhort dependance thereof in Court, of the Antiquity of the publi-

cation, of the weight or value of the cauſes, and all other circumſtances material to inform the Lord Chancellour, Lord Keeper, or Maſter of the Rolls, of the time of the ſetting down of cauſes, and the Six-clerk may not refuſe to offer the ſame to be ſet down, if he be attended in ſuch time as aforeſaid, nor come unprepared to inform the Lord Chancellour, Lord Keeper, or the Maſter of the Rolls, of the nature and circumſtance of the cauſe aforeſaid. And neither he, nor any of his Under-clerks, nor any of the Regiſters are to take any Fee, Gratuity,

tuity, or Reward for the ſame.

No mony, or other reward, ſhall in any wiſe be exacted, or taken directly or indirectly by any of the Six-clerks, or any of the Regiſters for, or in their behalf, for the preferring, and ſetting down of any cauſe for hearing, but only ſuch Fees as are behind, and unpaid of their termly Fees and Duties (if any be) and if any caſe happen to be ſet down for hearing, wherein they ſhall not have been ſatisfied their due Fees and Duties, they may alledge the ſame in ſtay of hearing of the cauſe.

Proceedings in hearing Cauſes.

WHere no Council appears for the Defendant at the hearing, and proceſs appears to have been duly ſerved, the anſwer of ſuch Defendant ſhall be read, and if the Court upon ſuch hearing ſhall find cauſe to decree for the Plaintiff, yet a day ſhall regularly be given to the Defendant to ſhew cauſe againſt the ſame, but before he be admitted thereunto, he ſhall pay down to the Plaintiff, or his Attorney in Court

Court, ſuch coſts as the Court upon that hearing ſhall aſſeſs, and the order is to be penned by the Regiſter accordingly, (*viz.*) *It is decreed ſo and ſo, &c.* Unleſs the Defendant ſhall by ſuch a day pay to the Plaintiff, or his Attorney in Court coſts, and ſhew good cauſe to the contrary; and ſuch Defendant upon his ſhewing cauſe, ſhall firſt produce a Certificate from the Plaintiffs Attorney in Court, that he hath paid the coſts, or Affidavit of tender or refuſal thereof.

Contempts.

ALL proceſs of contempt ſhall be made out into the County where the party preſented is reſident, unleſs he ſhall be then in, or about *London*, in which caſe it may be made into the Country where the party then is. And if any perſon ſhall be taken upon proceſs otherwiſe, or irregularly iſſued, the party ſo taken firſt appearing unto, and ſatisfying the proceſs which did regularly iſſue againſt him, ſhall be diſcharged of his contempt, and have his full coſts to be taxed of courſe

courſe by the Six-clerks not towards the cauſe, for ſuch undue or irregular proſecution from the time that the error firſt grew, without motion or other order.

Every Suitor who proſecuteth a contempt, ſhall do his beſt endeavour to procure each ſeveral proceſs to be duly ſerved, and executed upon the party proſecuted, and his willful default therein appearing to the Court, ſuch perſon offending ſhall pay unto the party grieved good coſts, and loſe the benefit of the proceſs returned without ſuch endeavour.

All attachments in proceſs ſhall be diſcharged upon the defendants payment, or tender to the plaintiffs Clerk, and refuſal of the ordinary coſts of the Court, and filing his Plea, Anſwer or Demurrer (as the caſe regularly requires) but upon motion in Court, or petition in that behalf.

And if after ſuch conformity and payment of the coſts (or tender and refuſal thereof) any further proſecution ſhall be had of the ſaid contempt, the party proſecuted ſhall be diſcharged with his coſts.

If after appearance, and Interrogа-

terrogatories exhibited as aforesaid, the party appearing shall depart before he be examined (without leave of the Court) he is upon motion and certificate from the Register of such his departing and not being examined, and of the Interrogatories exhibited from the Examiner, to stand committed without further Day given unto him, and is not to be discharged from such his contempt until he hath been examined and cleared of his contempt; and if he shall upon his examinations, or by proofs be found in contempt, he shall clear such his contempt,

and

and pay the Prosecutor his costs, before he be discharged of his Imprisonment. And although he be cleared of his said contempt, yet he shall have no costs, in respect of his disobedience in not being examined without the Prosecutors trouble and charges in moving the Court as aforesaid.

In case of prosecution of a contempt for breach of an Order of the Court, or otherwise grounded upon an Affidavit, the Interrogatories shall not be extended to any other matter than what is comprehended in the said Affidavit or Order. And, if any

any other ſhall be exhibited, the party examined may for that reaſon Demur unto them, or refuſe to anſwer them.

Where the party proſecuted upon a contempt, hath denied it, or the ſame doth not clearly appear by his examinations, the Proſecutor may take out a commiſſion of Courſe to prove the contempt, and in ſuch caſe the party proſecuted may name one Commiſſioner to be preſent at the execution of the Commiſſion, and may henceforth (notwithſtanding the former uſage to the contrary) croſs examine the Witneſſes produced againſt

againſt him to prove the contempt, but is not to examine any Witneſſes on his part, unleſs he ſhall ſatisfie the Court touching ſome matter of fact, neceſſary to be proved for clearing the truth. In which caſe the Court, if there be cauſe, will give leave to him to examine Witneſſes to ſuch particular points ſet down; and the other ſide may croſs examine ſuch Witneſſes, But the Interrogatories on both ſides are to be included in the Commiſſion.

Where a contempt is proſecuted againſt one, who by reaſon of age, ſickneſs, or other cauſe

cauſe is not able to travel, or in caſe the ſame be againſt many perſons who are Servants or Workmen, that live far off, the Court will upon Motion and Affidavit thereof, grant a Commiſſion to examine them in the County, which Commiſſion ſhall be ſued out and executed at the charge of the perſon or perſons deſiring it, directed to ſuch indifferent Commiſſioners as the Proſecutors of the contempt ſhall name (as in other caſes) and one Commiſſioner only at the Nomination of the party proſecuted as aforeſaid, Which Commiſſion ſhall be executed at

ſuch

ſuch convenient time and place, as the Six clerks not towards the cauſe upon hearing the Clerks upon both ſides ſhall ſet down.

Upon every Examination and proof of a contempt referred to any of the Maſters of the Court to certifie whether the contempt be confeſſed or proved, or not: The Maſter in his Certificate thereof made to the Court, ſhall likewiſe aſſeſs and certifie the coſts to either party as there ſhall be cauſe, without other Order or Motion made for that purpoſe.

Commitmen.

Commitment.

THe Court being tender of the liberty of mens Perſons, and to avoid their Impriſonment upon malicious Affidavits, which are often made by one mean and ignorant perſon, and which hath heretofore by the courſe of the Court drawn on a Commitment, doth order, that from henceforth, where Oath ſhall be made of miſdemeanour in beating or abuſing, the party upon ſuing the Proceſs or Orders of the Court, the party offending ſhall ſtand committed upon motion, and no

no examination is in that caſe to be admitted.

And when Affidavit ſhall be made by two perſons, of Scandalous or contemptuous words againſt the Court or the proceſs thereof, the party offending ſhall likewiſe ſtand committed upon motion, without any further examination. And a ſingle affidavit in ſuch caſe ſhall be ſufficient to ground an Attachment, Whereupon ſuch perſon ſhall be brought in to be examined: and if the miſdemeanor ſhall be confeſſed, or proved againſt him, he ſhall ſtand committed until he ſatisfie the Court touching

touching his ſaid miſdemeanour, and pay the Proſecutor his coſts: And if he ſhall not be thereof found guilty, ſave by the Oath of the party who made ſuch Affidavit, he ſhall be diſcharged, but without any coſts, in reſpect of the Oath made againſt him as aforeſaid.

Decrees and Diſmiſſions.

THat all Decrees and Diſmiſſions pronounced upon hearing the cauſe in this Court be drawn up, Signed, and Inrolled before the firſt day after the next *Michaelmas*, or

Easter Term, after the same shall be so pronounced respectively, and not at any time after, without special leave of the Court.

When the party is committed, or brought in by a Serjeant at Arms for breach of a Decree, he is not to be enlarged until he hath performed the Decree in all things that are to be presently done, and given security by Recognizance with Sureties, as the Court shall order to perform the other parts of the Decree (if any be to be performed) at future days and times appointed by the Decree.

No

No Decree or Diſmiſſion ſhall be preſented by the Regiſter of this Court, or his Deputy, or any other, to the Lord Chancellor, Lord Keeper, or Maſter of the Rolls, to be Signed, before it be Signed by that Six-clerk to whom it belongeth, of his proper hand writing: or by his Deputy in his abſence.

To the intent the Decrees and Diſmiſſions of this Court may be eaſily found upon ſearch, the Six Clerks are to keep a publick Book for the entring all decrees and diſmiſſions which have been made

and ſigned by the Lord Chancellour ſince the Nine and twentieth day of *May* laſt, and which ſhall be made and ſo ſigned in this Court: And to that end the Regiſter ſhall at the beginning of every Term, deliver unto one of the Six Clerks a Liſt of all decrees and diſmiſſions ſigned by the Lord Chancellour, the Term and Vacation before.

If a Bill be regularly and juſtly diſmiſſed of courſe, or by order for want of proſecution, no motion ſhall be admitted for the retainer thereof, without a Certificate from the defen-

defendants Attorney in Court, that the coſts of the diſmiſſion are pay'd, to the end unneceſſary charge to the parties by ſeveral motions for one and the ſame matter, may henceforth be avoided.

Maſters.

THat the Maſters do not paſs any Exemplifications of depoſitions taken in Chancery upon a bare ſight of the Copies only, without firſt calling the Officer or Officers, who have the cuſtody of the Records, or Originals of ſuch

Copies, or ſome ſworn Clerk of his, or their Office, who are to produce the ſame before them, to warrant their ſigning thereof.

The Maſters are not upon the importunity of Council, (how eminent ſoever) or their Clients, to return ſpecial Certificates to the Court, unleſs they are required by the Court ſo to do, or that their own judgment in reſpect of difficulty leadeth them unto it; ſuch kind of Certificates for the moſt part occaſioning a needleſs trouble, rather than eaſe to the Court, and certain expence to the Suitor.

Their

Their Certificates and Reports are to be drawn as succinctly as may be (preſerving the matter clearly for the judgment of the Court) and without recital of the ſeveral points of the Orders of reference (which do ſufficiently appear by the Orders themſelves) or the ſeveral debates of Council before them: unleſs that in caſe where they are doubtful, they ſhortly repreſent to the Court the reaſons which induce them ſo to be.

The Maſters of the Court are to take notice, That when the Court requires to be ſatisfied

from them, touching any matter alledged to be confeſſed, or ſet forth in the defendants anſwer, It is intended, that without further Order, they ſhould take conſideration of the whole anſwer or anſwers of the defendants, and certifie not only whether the matter be ſo confeſſed or ſet forth, but alſo any other matter avoiding that confeſſion, or balancing the ſame, that the Court may receive a clear and true Information.

The Maſters in taking Affidavits, and adminiſtring of Oaths, in caſes duly preſented unto them, are to be circumſpect

ſpect and wary, that the ſame be reverently and knowingly given and taken, and are therefore to adminiſter the ſame themſelves to the party, and where they diſcern him raſh or ignorant, to give him ſome conſcionable admonition of his duty, and be ſure he underſtand the matter contained in his Affidavit, and read the ſame over, or heard it read in his preſence, and ſubſcribe his name or mark thereunto, before the ſame be certified by the Maſter, who is not to receive or certifie any *Affidavit*, unleſs the ſame be fairly and legibly written, without

without blotting, or Interlineation of any word of ſubſtance.

In all matters referred to the Maſters of the Court, their Certificate (not being to ground a Decree) if it be poſitive, is to ſtand, and Proceſs may be taken out to enforce performance thereof, without further motion, unleſs the adverſe party, upon notice given (to his Attorney or Clerk in Court,) that ſuch report is filed againſt him, ſhall within eight days after ſuch notice (if it be given in Term, or while the general Seals for Motions are held, or within four days of the next Term, if

it

it be given after) obtain ſome Order in Court to controul or ſuſpend the ſame; and in caſe of an inſufficient Anſwer certified by the Maſters, the Plaintiff may immediately take out Proceſs againſt the defendant for his coſts, and to make a better Anſwer, as hath formerly been uſed.

Where after Certificate or Report made by the Maſters of the Court, either Party ſhall appeal from the ſame, to the judgment of the Court, he ſhall firſt file his Exceptions thereunto briefly, with the Regiſter, and depoſite with him forty ſhillings

ſhillings to be paid to the other party for his coſts, if he prevail not in ſuch Appeal: And then the Regiſter ſhall enter ſuch cauſes of Appeal in a Paper, in order as they are brought unto him to be determin'd by the Court, in courſe upon days of Motions, and notice thereof to be given by the party appealing, to the Clerk of the other ſide. And alſo the Regiſters Paper to be ſet up in the Office two days before; and if the Court ſhall not alter the Maſters report, then the forty ſhillings depoſited to be paid to the party defending the ſame, with ſuch

increaſe as the Court ſhall find cauſe to impoſe, otherwiſe to be reſtored to the party appealing, and both without charge.

The Maſters Extraordinary ſhall not within twenty miles of *London*, take any Affidavits, or acknowledgment of Deeds, or Recognizances, or do any other act incident to the place of Maſter of the Chancery. And to the end it may appear, whether any Maſter Extraordinary ſhall notwithſtanding preſume ſo to do; every ſuch Maſter ſhall expreſs the name of the Town and County where he ſhall take any *Affidavit*, or the acknow-

acknowledgment of any Deed or Recognizance, otherwiſe the ſame ſhall not be held authentical, nor admitted to be Filed or Inrolled.

Curſitor.

WHereas there is an irregular practice lately introduced, of making forth Original Writs of *Clauſum fregit* in Treſpaſs, without any other cauſe of action therein expreſſed of Returns paſt, when in truth the proper cauſe of action, is either Debt, Caſe, Ejectment, or ſome other cauſe of action; and

and by process thereupon, the defendant is not only usually arrested, but frequently proceeded againſt to the Outlawry, to the great damage of the Subject, and the loſs and diminution not only of the proper Original Writs iſſuing out of this Court, but alſo of his Majeſties revenue for the caſual Fines thereupon due and payable. It is therefore Ordered,

That no Curſitor of this Court, from, and after the firſt day of *Trinity* Term next enſuing, make, or cauſe to be made any Writs of *Clauſum fregit*, or *Clauſum & Domum fregit* within

the

the City of *London*, without ſpecial Warrant from the Lord Chancellour, or Lord Keeper of the Great Seal of *England*, or Maſter of the Rolls for the time being, unleſs it be made appear by Affidavit, or ſome other probable evidence that the ſame is the true and proper cauſe of action.

That no Curſitor of any other County do make, or permit to be made within his reſpective Diviſion any of the ſaid VVrits of *Clauſum fregit*, or *Clauſum & Domum fregit*, of any other return, than of the laſt return of every reſpective Term,

Term ; unleſs it be to warrant Arreſts, and *Teſtatum Capias* only:

That no Curſitor ſhall from and after the end of *Michaelmas* Term next enſuing, make, or permit to be made within his reſpective Office and Diviſion, any Original VVrits whatſoever of any return paſt, unleſs he ſhall receive the Inſtructions for making thereof within the Term wherein the ſaid VVrits are to be retornable, Or at the fartheſt, on, or before the firſt Eſſoign day of the next ſucceeding Term, without ſpecial VVarrant from the Lord Chancellour, or Lord Keeper of the

Great Seal of *England*, or Maſter of the Rolls for the time being, Or good cauſe to be allowed of by the Principal, and Aſſiſtants of the Company of the Curſitors for the time being, or the Major part of them, at their publick Meetings according as heretofore hath been uſed.

The Curſitors are to take care that they imploy under them in their Office, none but Perſons of known integrity and ability, and if any Clerks, or Perſons ſo imployed, ſhall be found faulty in the premiſſes, he ſhall be expulſed the Office;

and

and the Curſitor who ſo imployed him, ſhall be anſwerable to the Court for ſuch Miſdemeanours; and ſuch perſon, or perſons, who ſhall be diſcovered to do, or proceed otherwiſe than is before mentioned, ſhall be liable to ſuch cenſure for his offence, as the Court ſhall find juſt to inflict upon him.

Petitions.

NO Injunction for ſtay of Suit at Law ſhall be granted, revived, diſſolved, or ſtaid upon Petition. Nor any Injunction of any other nature,

ſhall paſs by order upon Petition, without notice, and a Copy of the Petition firſt given to the other ſide; and the Petition filed with the Regiſter, and the Order entred.

No Sequeſtration, Diſmiſſion, Retainers upon Diſmiſſions, or final Orders are to be granted upon Petition.

No former Order made in Court is to be altered, or explained upon a Petition; or commitment of any perſon taken upon Proceſs of contempt to be diſcharged, but upon hearing the adverſe party, his Attorney or Clerk toward the cauſe.

Paupers.

Paupers.

AFter an admittance *In forma pauperis*, no Fee, profit, or reward ſhall be taken of ſuch party admitted by any Counſellor or Attorney, for the diſpatch of the *Paupers* buſineſs, during the time it ſhall depend in Court, and he continued *in forma pauperis*; nor any Contract, nor Agreement be made for any recompence or reward afterwards. And if any perſon offending herein ſhall be diſcovered to the Court, he ſhall undergo the diſpleaſure of the Court, and ſuch further puniſh-

ment as the Court ſhall think fit to inflict upon him, and the party admitted, who ſhall give any ſuch fees or reward, or make any ſuch Contract or Agreement, ſhall be from thenceforth diſpaupered, and not be afterwards admitted again in that Suit to proſecute *in forma pauperis*.

If it ſhall be made appear to the Court, That any perſon proſecuting *in forma pauperis*, hath ſold or contracted for the benefit of the Suit, or any part thereof, whiles the ſame depends, ſuch cauſe ſhall be from thenceforth totally diſmiſſed the Court, and never again retained. Such

Such Council or Attorney as ſhall be aſſigned by the Court, to aſſiſt the perſon admitted *in forma pauperis*, either to proſecute or defend, may not refuſe ſo to do, unleſs they ſatisfie the Lord Chancellour, or Lord Keeper of *England*, or Maſter of the Rolls, who granted the admittance, with ſome good reaſon of their forbearance.

That Counſellour who ſhall move any thing to the Court, on the behalf of a perſon admitted *in forma pauperis*, ought to have the Order of admittance with him, and firſt to move the

ſame before any other motion. And if the Regiſter ſhall find that ſuch perſon was not admitted *in forma pauperis*, he ſhall not draw up any Order upon the ſecond motion, made by any ſuch Council, but he ſhall loſe the fruit of ſuch ſecond motion in reſpect of his abuſe to the Court.

No proceſs of Contempt ſhall be made forth, and ſent to the Great Seal, at the Suit of any perſon proſecuting as Plaintiff *in forma pauperis*, until it be ſigned by the Six Clerk who deals for him, and the Six Clerks are to take care, that ſuch

proceſs,

proceſs be not taken out needleſly, or for vexation, but upon juſt and good grounds, as they will anſwer it to the Court, if the contrary ſhall appear.

And laſtly, it is Ordered, that all Maſters of the Court of Chancery, Counſellors, and all Officers, Miniſters, Clerks, and Solicitors in the ſaid Court, do obſerve theſe Orders, which are to continue, until upon further conſideration and experience, any Alterations ſhall be thought fit to be made therein.

Clarendon:

HAR. GRIMSTON.

The

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FINIS.

A Catalogue of Books Printed for, and sold by *Robert Pawlet*, at the Sign of the *Bible* in *Chancery-Lane*, near *Fleet-street*.

VIllare Anglicum, *Or, A view of all the Towns, Villages, &c. in* England, *with the Hundreds, Rapes and Wapentakes wherein they are, so that naming any Town or place you may readily find what Shire, Hundred, &c. it is in. Collected by the appointment of the eminent Sr.* Henry Spelman *Kt.*

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Episcopacy as established by the Law in England, *written by the special command of the late King* CHARLES, *by* R. Sanderson, *late Lord Bishop of* Lincoln.

A Scholastical History of the Canon of the Holy Scripture; Or the certain and indubitate books thereof, as they are received in the Church of England; *by Dr.* Cosin, *Lord Bishop of* Durham.

A Collection of Articles, Injunctions, Canons, Orders, Ordinances, and Constitutions Ecclesiastical, and other publick Records of the Church of England, *with a Preface; by* Anthony Sparrow *Lord Bishop of* Exon.

A Rationale on the Book of Common-Prayer of the Church of England; *by* Anthony Sparrow *Lord Bishop of* Exon.

The Bishop of Exon's *Caution to his Diocess against false Doctrines; delivered in a Sermon at his Primary Visitation.*

The Whole Duty of Man, *laid down in a plain and familiar way for the use of All, but especially the Meanest Reader; necessary for all Families; with private Devotions on several Occasions.*

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The Causes of the Decay of Christian Piety; *Or, an Impartial Survey of the Ruines of Christian Religion, undermin'd by Unchristian Practice; by the Author of* The Whole Duty of Man.

An

An Historical Vindication of the Church of England *as it stands separated from the* Roman, &c. *by Sir* Roger Twisden *Baronet.*

Mr. Chillingworth's *Reasons against Popery, perswading his Friend to return to his Mother the Church of* England, *from the Church of* Rome.

The Book of Homilies appointed to be read in Churches.

Constitutions and Canons Ecclesiastical.

Divine Breathings, or a Pious Soul thirsting after Christ, in an hundred excellent Meditations.

Hugo Grotius de Rebus Belgicis, *Or the Annals and History of the Low-Country Wars in English, wherein is manifested, that the United Netherlands are indebted for the Glory of their Conquests to the Valour of the* English.

A Treatise of the English Particles; *shewing much of the variety of their significations and uses in* English; *and how to render them into Latin, according to the Propriety and Elegancy of that Language; with a Praxis upon the same; by* William Walker, B.D. *School-Master of* Grantham.

The Royal Grammar, commonly called Lillies *Grammar, explained, opening the meaning of the Rules with great plainness to the understanding of Children of the meanest capacity, with choice observations on the same from the best Authors; by* W. Walker

Walker, B. D. *Author of the Treatise of* English Particles.

A Treatise proving Spirits, Witches, and Supernatural Operations by pregnant Instances and Evidences: by Meric. Casaubon, *D.D.*

A Catalogue of the names of all the Parliaments or reputed Parliaments, from the year 1640.

A Narrative of some Passages in or relating to the Long-Parliament, by a Person of Honour.

Nemesius's *Nature of Man, in English: by* G. Withers *Gent.*

Inconveniencies of Toleration.

Toleration intolerable.

A Letter about Comprehension.

A Thanksgiving Sermon Preached before the King, by J. Dolben, *D.D. Dean of* Westminster, *and Clerk of the Closet.*

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Iter Lusitanicum, *Or the Portugal Voyage, with what memorable passages interven'd at the Shipping and in the Transportation of her Sacred Majesty* Katharine,

Queen

Queen of Great Britain, *from* Lisbon *to* England; *by Dr.* Samuel Hynde.

A Charge given by the most Eminent and Learned Sir Francis Bacon, *at a Sessions for the Verge, declaring the Jurisdiction thereof, and the offences herein inquirable, as well by the Common-Law, as by several Statutes.*

Mr. Whites *Learned Tract of the Laws of* England.

Graphice, *Or the use of the Pen and Pencil in Designing, Drawing, and Painting; by Sir* William Sanderson, *Knight.*

Hippocrates *Aphorismes in English.*

The Communicant instructed, for worthy Receiving the Lords Supper: by Tho. Trot, *of* Barkston *near* Grantham.

Petavius's *History of the World.*

Military and Maritime Discipline, viz. *The Exercise of Horse and Foot, with Sir* Francis Veres *Directions; and a Treatise of Invasion by Captain* Tho. Venn, *the Fortifying of Towns, with the ways of Defending and Offending the same, by the Learned Mathematician* And. Tacquet; *also Sir* Samuel Morelands *Methods of Delineating all manner of Fortifications; Together with the Art of Founding Great Ordnance, making Gunpowder, the taking heights and distance, with the nature of Fire-Works*, &c.

Sir *Francis Moor's* } REPORTS.
Baron Savile's }

And all sorts of LAW-BOOKS.

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